




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commissioners
Staff Director
Deputy Staff Director
General Counsel

FROM: Office of the Commission Secretary 

DATE: December 20, 2000

SUBJECT: Statement of Reasons for MUR 4972

Attached is a copy of the Statement of Reasons for MUR 4972 signed
by Commissioner David M. Mason, Commissioner Karl J. Sandstrom,
Commissioner Bradley A. Smith, and Commissioner Scott E. Thomas.

This was received in the Commission Secretary's Office on
Wednesday, December 20, 2000 at 2:35 p.m.

cc: Vincent J. Convery, Jr.
Press Office
Public Information
Public Disclosure

Attachment



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In re Issa for Congress.

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MUR 4972

STATEMENT OF REASONS

On October 11, 2000, the Commission rejected the General Counsel's recommendation that MUR 4972 be dismissed as not warranting further action relative to other cases pending before the Commission. Instead, the Commission voted 4-2¹ to find no reason to believe Respondent Issa for Congress Committee violated the Federal Election Campaign Act (FECA).

Standard for Substantive Dismissals

The Commission has the power to investigate alleged FECA violations only where there is "reason to believe" (RTB) that a violation has been, or is about to be, committed. 2 USC § 437g(a)(2). An RTB finding is warranted only if a complaint sets forth sufficient specific facts or allegations, which, if proven true, would constitute a violation of the FECA. MUR 4960 (Hillary Clinton) Statement of Reasons (SOR). Mere speculation will not support an RTB finding. *Id.* While credibility will not be weighed in favor of the complainant or the respondent, a complaint may be dismissed if it consists of factual allegations that are refuted with sufficiently compelling evidence provided in the response to the complaint, *see* MUR 4852 (Wiebe), or available from public sources such as the Commission's reports database.

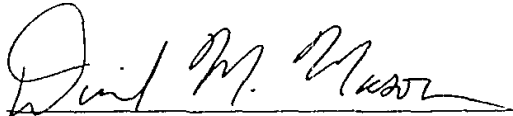
Complaint & Response

Complainant alleges that Respondent both received and made in-kind contributions. It purportedly failed to pay staff salaries and paid a consultant to work on the Horn for U.S. Senate campaign. Respondent points out that the campaign's disclosure report for the relevant period (filed before the complaint) discloses payments to the staff members named in the complaint. In addition, the Horn campaign reported (again, prior to the complaint) paying substantial consulting fees (\$5,000 per month) to the consultant identified.

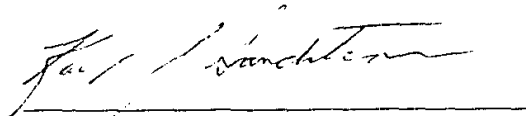
¹ Chairman Wold and Vice-Chairman McDonald dissented, preferring to dismiss the matter as an exercise of prosecutorial discretion.

Analysis

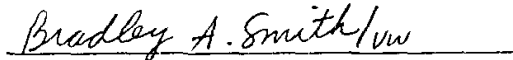
An RTB finding is unwarranted because uncontroverted public sources, in this instance, the Commission's reports database, rebut Complainant's allegations of in-kind contributions from staff and to another campaign. The Issa campaign reported payments to the staff members Complainant named and alleged were not paid. In regard to the alleged in-kind contribution to the Horn campaign, both committees involved (Issa and Horn) reported payments to the consultant identified. Political consultants commonly work for more than one client campaign during a single election period. Thus, payments by two (or more) campaigns to the same consultant do not give rise to an inference that one campaign has made a contribution to the other. Moreover, both campaigns responded that the consultant had rendered services to their respective committees corresponding to the payments made.



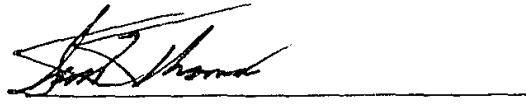
David M. Mason
Commissioner



Karl J. Sandstrom
Commissioner



Bradley A. Smith
Commissioner



Scott E. Thomas
Commissioner

December 19, 2000